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April 1, 2008

Docket No. R-1305

To Whom It May Concern:

I am writing this comment letter in response to Proposed Rule Amending Reg Z. I am a mortgage broker in Decatur, Alabama. I support consumer protection, but respectfully oppose the proposal to restrict compensation for mortgage brokers. The Proposed Fed Rule will not only hurt consumers, it will impede my ability to compete. This Rule will place significant additional burdens on mortgage brokers that would not be placed on other loan originators.

In the rule it would require brokers disclose the exact dollar amount earned from a transaction BEFORE the consumer paid any fee to any person, AND BEFORE submitting an application. It says a broker may only receive compensation disclosed and if there is no disclosure, the broker can not be paid by any party. The part about BEFORE submitting an application does not make sense at all, because how can I disclose fees, before an applicant applies? It is impossible to give a reasonably precise dollar estimate of fees that will be charged in a transaction even before an application is submitted because I do not yet know the borrower's financial status, the details of the transaction, what type of loan product the borrower chooses, the loan amount and so on……all of which may vary as the transaction progresses. The variables could include the borrowers credit score may limit what loan product they qualify for, the location of the property may limit the loan product available, the borrowers income may limit what loan amount the borrower qualifies for, and these are just a few of the variables that change loan transactions everyday.

If this rule passes, it should apply to ALL LOAN ORIGINATORS, not just brokers!!! As a broker, I ALREADY disclose a Yield Spread Premium on both my Good Faith Estimate and AGAIN on the HUD 1 Settlement Statement. A question to you, where does a BANK or LENDER disclose their Service Release Premium? This is the SAME fee as the Yield Spread Premium and is being treated as different because it is obtained after the loan closed. This is very confusing to the consumer! I worked for a Bank for over 10 years, and YES they do know what they are making on loans when they close. To say otherwise is ridiculous. That is the excuse we brokers have heard for years, along with the reason that RESPA is for COST AT CLOSING, not after. Well, who sells a product without knowing what their potential gain or cost will be? Be it that the cost is at the closing (YSP) or days after the closing (SRP), the cost is STILL THERE; no matter what label you put on it!

I provide a service to my clients and am the middle man between the borrower and the lender. I serve both parties, in that my borrower has hired me to find a mortgage loan that fits their particular needs and wants and I serve my lender by offering their products when they fit my borrower's particular wants and needs in a mortgage loan. I do not represent the borrower or the lender in a transaction; I act as an intermediary between the two parties.

Most consumers do not know the difference in a broker and a lender. We all offer the same products, have similar looking offices and we all do the same job. I mentioned earlier, I do the same job I did at the Bank for 10 years; just a different location and now I work for myself and not a Bank. The main difference is in what I have to disclose to my borrower. I now disclose an YSP and at the bank I did not have to disclose my SRP. This is why any disclosures should apply to ALL MORTGAGE ORIGINATORS, not just brokers. This is also why borrowers could be steered away from brokers, even when they offer a better, cheaper product, by a bank or lender, touting, “Those brokers charge this additional YSP and as you can see, looking at this new disclosure, we do not.” AGAIN, How very unfair and unclear to my consumer!

I’m not sure you understand that a Yield Spread Premium (YSP) IS NOT just to compensate a broker for sending a lender a loan. I use my YSP often to get my borrowers into a home. On that same borrower, however, if they went to a bank, they would not get the same loan, because how would the bank then disclose the SRP and use it to help out with the borrower’s closing cost? That is one way I use my YSP. To help my borrowers have enough money to pay their closing costs.

I suggest consideration of alternatives to the proposed regulation which would protect consumers in dealings with ALL MORTGAGE ORIGINATORS.

I thank the Board of Governors of the Federal Reserve for considering my comments.

Best Regards,

Penny Fagan

Penny Fagan, CRMS, ARML
Owner, President, P Fagan Mortgage, Inc.
2006-2009 Director, National Association Mortgage Brokers
2005 President, Alabama Mortgage Brokers Association

*The CRMS is a national designation signifying the highest level of professionalism in the mortgage industry. A CRMS designation is gained only once the candidate has met certain requirements of experience and knowledge and has passed a written examination. Does your loan officer have the experience and knowledge to help you with your mortgage needs? For more information, go to www.namb.org.